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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 8, 2010

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 06HD-185

Hawaii

Amend Prior Board Action of February 27, 2009, Agenda Item D-3, Grant of Term, Non-Exclusive Easement to Tradewinds Forest Products, for Access Purposes, O'okala, North Hilo, Hawaii, Tax Map Key: 3rd/3-9-01:06.

BACKGROUND:

At its meeting of February 27, 2009, Agenda Item D-3 (Exhibit A), the Land Board approved the grant of term non-exclusive easement to Tradewinds Forest Products, LLC. for access purposes; O'okala, North Hilo, Hawaii, TMK: 3rd/2-9-01:portion of 06.

The Board submittal recommended annual rental with reopenings at the 10th and 20th years. However, current policy favors a lump sum payment for term easements.

Staff is therefore recommending that the Board amend its prior action of February 27, 2009, agenda item D-3 by authorizing a one-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

RECOMMENDATION: That the Board:

1. Amend its prior board action taken at its meetings of February 27, 2009, Agenda Item D-3 by authorizing a one-time payment to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.
2. Review and approval by the Department of the Attorney General; and
3. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully submitted,



Gordon C. Heit
Land Agent



APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



D-11

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DEPARTMENT OF LAND AND NATURAL RESOURCES
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Hawai'i

Grant of Term, Non-Exclusive Easement to Tradewinds Forest Products, for
Access Purposes, O'okala, North Hilo, Hawaii, Tax Map Key:3rd/3-9-01:06.

APPLICANT:

Tradewinds Forest Products, LLC, a Delaware corporation whose business and mailing
address is 2574 NW Thurman Street, Portland, Oregon, 97210.

LEGAL REFERENCE:

Section 171-13, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at O'okala, North Hilo, Hawaii, identified by Tax
Map Key: 3rd/3-9-01: portion of 06, as shown on the attached map labeled Exhibit A.

AREA:

.37 acres, more or less.

ZONING:

State Land Use District: Urban
County of Hawaii CZO: MG 1a - General Industrial (1 acre)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

February 27, 2009

CHARACTER OF USE:

Right, privilege and authority to construct, use, maintain and repair a right-of-way over and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

EASEMENT TERM:

Thirty (30) years.

ANNUAL RENT:

Annual rent to be determined by independent or staff appraisal establishing fair market rent, subject to review and approval by the Chairperson.

RENTAL REOPENINGS:

At the 10th and 20th years of the lease term, by staff or independent appraisal.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item No. 5 that states "Routine and emergency repair and restoration of existing structures and facilities on State lands involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>X</u>	NO <u> </u>
Registered business name confirmed:	YES <u>X</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>X</u>	NO <u> </u>

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine initial rent;
- 2) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report to ascertain ownership, where necessary, at Applicant's own cost and subject to review and approval by the Department.

REMARKS:

The subject property is a portion of the former O'okala school lot. The lower end of the lot below the classrooms drops off and was not made use of by the school. During the time when the sugar mill was in operation, the mill utilized that portion of the school lot for storage of equipment and materials. It is currently paved with concrete with some abandoned equipment leftover from the sugar mill. The applicant has agreed to remove and dispose of the abandoned equipment.

Tradewinds Forest Products, LLC (TFP), holds a Timber Land License approved by the Board for lands managed by the Division of Forestry and Wildlife in the Waiakea Timber Management Area, which includes Waiakea, Upper Waiakea, and Olaa Forest Reserves. They are also seeking to secure timber supplies from other areas of the Big Island as well.

TFP will be utilizing the former O'okala Sugar Mill for the processing of their harvested timber. Because the portion of the subject State land is contiguous with the former sugar mill and was utilized by the mill, the applicant wishes to use a portion of the subject area for movement of their transportation vehicles through the facility.

The County of Hawaii zoning for this property is MG 1a - general industrial and the proposed use is allowed under this zoning. The applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Requests for comments were sent to various Federal, State, and County agencies with no objection to the request for this easement.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (3) 3-9-01:06 provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a term non-exclusive easement to Tradewinds Forest Products covering the subject area for access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current term easement document form, as may be amended from time to time;

(February 13, 2009)

- B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key:3rd/3-9-01:04, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



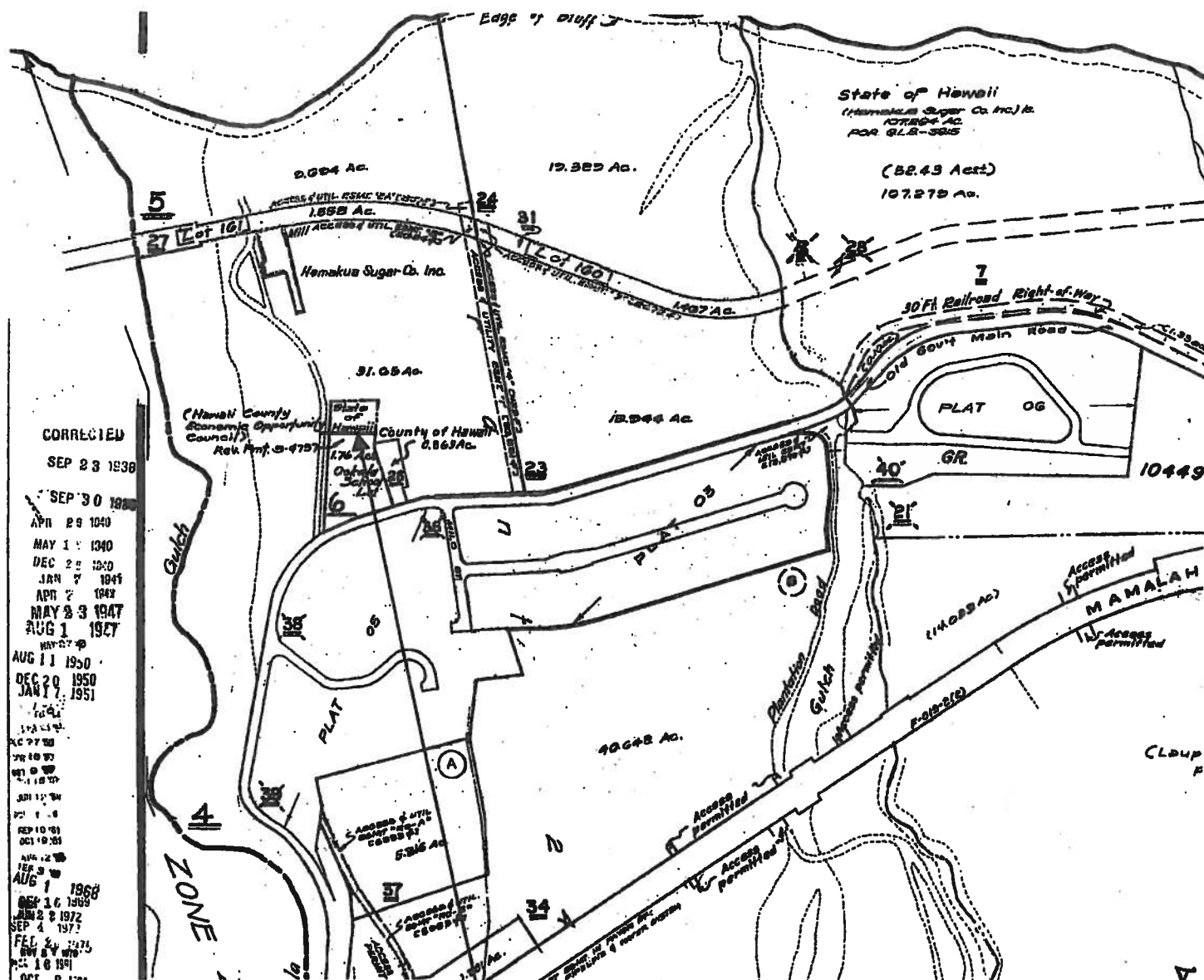
 Gordon C. Helt
Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson 

TMK: 3RD/3-9-01: portion of 06



SUBJECT LOCATION

